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July 2, 2002

Ms. Janice Heuer
Waste Management Division
Michigan Department of Environmental Quality
Cadillac District Office
120 W. Chapin Street W
Cadillac, MI 49601

RE: Williamsburg Receiving & Storage
Permit #M0086
Williamsburg, Michigan

Dear Janice:

As we discussed last week, enclosed please find our response which we believe provides sound legal and factual support for the modification of the existing permit. From a practical perspective, I can see little justification for alleging that the Williamsburg Receiving & Storage operation is operating unlawfully since it is the discharge limitations which are important and not the process creating the discharge. We respectfully request that you consider the enclosed as part of my client's request for a modification of their existing permit. We look forward to further dialogue towards modification or, if MDEQ staff deems appropriate, a new permit application. Please contact me after your review of the enclosed.

Should you have any questions or comments regarding the enclosed in the meantime, please feel free to contact me.

Sincerely,

ZIMMERMAN, KUHN, DARLING,
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Mr. Joseph E. Quandt
Zimmerman, Kuhn, Darling, Boyd, Taylor and Quandt, PLC.
412 S. Union Street
P.O. Box 987
Traverse City, MI 49685-0987

Re: Williamsburg Receiving & Storage
Permit # M0086
Williamsburg, Michigan
ISE Project #02399084-05E

Dear Mr. Quandt:

The following is a presentation of my rationale supporting a permit modification for the subject project as opposed to a re-application. The factual background presented below provides some context for the regulatory citations which follow. Please bear in mind that I have not reviewed MDEQ-WMD's file in Lansing to view the actual permit applications, nor Staff Activity Reports summarizing their review. Instead, I have relied upon the file information provided by WRS and Mr. Roy, as well as my own experience and knowledge of the processes operative in the cherry food industry.

BASES OF EXISTING PERMIT

Original Wastewater Discharge Permit

Permit 00836 was initially issued in August of 1993 to Gray and Company of Hart, Michigan. The basis for this original permit application is understood from Hydrogeologic Study Reports dated September 1988 and December 1989, prepared by Nordlund and Associates, Inc. These reports were submitted to DNR-WMD in support of the original permit application. It is clearly stated in the September Report that the processes generating wastewater proposed for discharge under the original permit application included:

- **Excess Brine from cherries locally-brined and shipped to Hart, Michigan for pitting, and**
- **Diluted brine from the first soak of locally-brined cherries soaked at Hart, Michigan**

The excess brine and diluted brine fluids were to be mixed in lined earthen pits in Williamsburg and dilution water was to be added. Dilution water was proposed to be added to the combined excess brine and diluted brine fluids in the pit until the Chloride concentration in this "manufactured wastewater" (MWW) was lowered to 250 ppm. Upon attaining the 250 ppm goal, the MWW was to be land applied to the same area of the site where wastewater is permitted for land application by WRS under the current Permit.

The MWW proposed in the Hydrogeologic Study Report was characterized during this portion of the permit application process by mass balance methods, not through chemical analyses of actual wastewater. The original Permit Wastewater Limitations and Monitoring Requirements are contrasted with the Current Limitation in the following table.

ORIGINAL PERMIT CONDITIONS AND CURRENT PERMIT CONDITIONS COMPARISON TABLE

Sample Monitor Location	Original Permit Limitation	New Permit Limitation	Original Measurement Frequency	New Measurement Frequency	Original Sample Type	New Sample Type
Irrigation Waste Flow						
Daily (max.)	94,000	42,000	weekly	weekly	Calculation	Calculation
Yearly (max.)	8.0E+06	1.5E+07	yearly	weekly	Calculation	Calculation
Hydraulic Loading	(May to October)					
Daily (max.)	1.0 in / day	0.09 in / day	weekly	weekly	Calculation	Calculation
Weekly (average)	2.5 in / wk	0.63 in / wk	monthly	NR	Calculation	NR
Weekly (max.)	4.0 in / wk	0.63 in / wk	weekly	weekly	Calculation	Calculation
Hydraulic Loading	(October to April)					
Daily (max.)	NP	0.4 in / wk	weekly	weekly	Calculation	Calculation
Weekly (average)	NP	0.4 in / wk	monthly	NR	Calculation	NR
Weekly (max.)	NP	0.4 in / wk	weekly	weekly	Calculation	Calculation
Wastewater Chemistry						
pH	6.0 to 8.0	NR	semi-monthly	NR	Grab	Grab
Sodium (mg/L)	150	150	semi-monthly	monthly	Grab	Grab
Chloride (mg/L)	250	250	semi-monthly	monthly	Grab	Grab
Sulfate (mg/L)	250	250	semi-monthly	monthly	Grab	Grab
Phosphorous (mg/L)	4	1	semi-monthly	monthly	Grab	Grab
TIN (mg/L)	5	5	semi-monthly	monthly	Calculation	Calculation
Specific Conductance	NR	NL	NR	weekly	Grab	Grab
Irrigation Fields						
Inspection	nusiance	nusiance	daily	daily	Visual/Olfactory	Visual/Olfactory
Soil pH	normal	NR	triannual	NR	Grab	NR
Soil Phosphorous	75 ppm	NL	annual*	biennial	Grab	Grab
Brine Pits						
Freeboard	12 inches	Not	weekly	Not	Visual	Not
Inspection	NL	Required	daily	Required	Visual	Required
Groundwater Monitoring						
13 monitoring wells		Not Required		Not Required		Not Required
pH	N / A	NR	Quarterly	NR	Grab	NR
Sodium (mg/L)	150	NR	Quarterly	NR	Grab	NR
Chloride (mg/L)	250	NR	Quarterly	NR	Grab	NR
Sulfate (mg/L)	250	NR	Quarterly	NR	Grab	NR
Phosphorous (mg/L)	1	NR	Quarterly	NR	Grab	NR
TIN (mg/L)	5	NR	Quarterly	NR	Calculation	NR
Specific Conductance	NL	NR	Annual	NR	Grab	NR
Static Water Level	NL	NR	Quarterly	NR	USGS Datum	NR

Notes: NP= Not Permitted, NL= Not Limited, NR= Not Required

Also worth noting in the Hydrogeologic Study Report submitted to MDNR is the affirmation that the MWW effluent is proposed to contain 4,400 ppm of BOD load and 20 ppm of suspended solids. Mass balance calculations provided by Nordlund Associates identify that annual precipitation would dilute applied wastewater (MWW) by approximately 16 percent in addition to the dilution volume added by the Permittee.

The Hydrogeologic Study Reports and the Permit Limitations also provide the nominal daily and annual loading. The Hydrogeologic Study indicates that the application land areas total approximately 5 acres. This yields a nominal maximum application rate of 0.73 inches per day (in/day) when the maximum daily Permitted flow (94,000 gallons per day) is applied uniformly throughout the available areas and 0.32 in/day when 8 million gallons is applied annually over the entire permitted area.

Current Wastewater Discharge Permit

Wastewater Character and Origin

The communications in support of the current Permit application suggest that brine cherry stemming and pitting are the only processes generating wastewater to be discharged by land application. The enclosed communication (see Tab #1) from the Permit Application agent, Environmental Solutions, Inc. (ESI) to Mr. Scott Ross of WMD's Groundwater Permit Section (GPS) summarizes the process in a petition for waiver from the hydrogeologic study requirements (MAC R323.2221). Chemical analyses from stemming and pitting operations (versus mass balance calculations) are provided from similar processes at another plant in support of the waiver petition and application.

These analytical results are summarized on Table 1 of the attached letter. Noteworthy are the table entries for Chloride, Conductivity and BOD. Clearly, brine constituents from residuals on processed brine cherries will transfer brine into the process wastewater. Though ESI identifies that the analytical results exaggerate the ***quantity*** of brine introduced into wastewater, it is clearly communicated in Permit Application supporting documents that **wastewater originates from diluting cherry brine**.

The laboratory analyses for Chloride and Sodium concentrations support this origin. The BOD and specific conductance values reported in Table 1 verify this origin. The BOD load results from sugars and amino acids leached out of fruit and into the brine. The elevated wastewater conductivity is related to elevated dissolved solids transferred to the wastewater by addition of brine. Local groundwater conductivity from the Hydrogeologic Study Reports is approximately 300 µmho/centimeter whereas the reported conductance of wastewater from Table 1 is nearly 8 fold greater.

Hydraulic Production and Loading

The May 15, 2000 letter from ESI to Mr. Hubbell refers to ESI's conversations with WMD-GPS Staff regarding ESI's proposed application rates. ESI indicates that upon receiving comments from Staff expressing concerns regarding proposed application rates of 2.0 in/week (0.33 in/day on a 6-day week), ESI proposed to reduce the loading rate by 73% to only 0.55 in/wk.

This lower application rate results in a 0.09 in/day daily application rate (current Permit Limitation), based upon a 6-day work week. The concession was noted by ESI as "facilitating" Permit issuance. No technical basis whatsoever is provided for this concession. The letter is attached for your reference at Tab #2.

REGULATORY BASES FOR PERMIT MODIFICATION

The 1993 and current Permits have the same Permit number, M 00836. This suggests that the 1993 Permit has been modified to reflect different processes operative at the plant by different Permittees. Application forms and other documents were submitted in support of each operating condition by each Permit Applicant.

Statutory Provisions Relating to Permit Modification

Part 31 of the 1994 PA 451, the Natural Resources and Environmental Protection Act (NREPA) broadly empowers MDEQ to promulgate administrative rules to implement its obligations under that Part, including rules to enforce and develop State water quality standards, wastewater discharging permitting process, reporting procedures, and Permit Modification processes. Section §324.3112(1) of Michigan Compiled Laws (MCL) provides DEQ the discretion to establish a "compliance schedule" or dates by which a permittee is to come into compliance with effluent requirements, thereby preventing "unlawful pollution" and assuring compliance with applicable federal law. The following passage from this subpart is illustrative of DEQ's discretion, "If the department finds that the terms of a permit have been, are being, or may have been violated, **it may modify**, suspend or revoke the permit **or grant the permittee a reasonable period of time in which to comply with the permit**."[emphasis added].

This language suggests that the legislature foresaw that there would be instances when Permittees did not have a valid Permit or when their discharge exceeded Permit Limitations. The legislature provided DEQ with the discretion to modify Permits and to allow a period of non-compliance when the DEQ worked with the Permittee to rectify the conditions giving rise to violations of Permit conditions.

Administrative Rules Relating to Permit Modifications

Part 21 Rules – Wastewater Discharge Permits

This part of the Michigan Administrative Code (MAC) includes relevant regulation of the Permit modification administrative process. These rules were promulgated under authority vested in DEQ under Part 31 of NREPA. As the legislature envisioned, various conditions would exist over time during which a Permittee would be either; non-compliant with Permit conditions, or would seek to increase waste loads under an existing permit. The DEQ recognized this potential by promulgating rules to deal with the administration of Permit modifications.

For example; defined terms under R 323.2102 include "Application" which means, "...either the uniform national NPDES application form, ***including subsequent additions, revisions, or modifications thereof***, promulgated by ....."

Specifically relevant under these rules are subparts dealing with Permit conditions and review/reissuance of Permits, being Rules 1149 and 1151, respectively.

R 323.2149 Other terms and conditions of state and national permits.

Rule 1149. (1) As part of the condition for issuing a state or national permit by the commission pursuant to these rules, the commission shall be assured that:

(a) All discharges authorized by the permit are consistent with the terms and conditions of the permit ***and that the permittee will make all reasonable effort to meet any interim or final dates of compliance*** specified therein.

(b) ***Any facility expansion, production increases, process modifications, changes in discharge volume or other changes in operations or conditions of the permittee which may result in a new or increased discharge of waste or wastewater shall be reported to the commission by submission of a new application for a state or national permit pursuant to R 323.2108,*** **or if the discharge does not violate effluent limitations specified in the permit, by submission to the executive secretary a notice of a new or increased discharge.**

R 323.2151 Review and reissuance of state and national permits.

Rule 1151. (1) At least 180 days prior to the expiration date of a state or national permit issued by the commission pursuant to the commission act and these rules, a permittee who wishes to continue the discharge of waste or wastewaters into the surface or groundwaters of the state or on the ground shall submit a written request to the commission for reissuance.

(2) After receipt of written request for reissuance of a state or national permit by a permittee, the commission shall review the request and before reissuing a permit shall be assured that:

(a) The permittee is in compliance with or has substantially complied with the terms, conditions, requirements, ***and schedules of compliance*** of the existing state or national permit.

(b) ***The commission has up-to-date information on the permittee's production levels, waste treatment practices, and the nature, contents, and frequency of the permittee's discharge.*** The information shall be available to the commission either through the submission of new NPDES forms by the permittee or by means of monitoring records or reports submitted thereto pursuant to R 323.2155.

(c) The discharge is consistent with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements, including any additions to, or revisions or modifications of, the effluent standards and limitations, water quality standards, ***or other legally applicable requirements during the term of the permit.***

From these two citations it appears clear that DEQ understood that Permittees were not going to be operating under purely static conditions throughout the duration of their Permit. Compliance schedules, facility expansions and "new and increased discharges of waste or wastewater" are expectations DEQ hold for Permittees. Rule 1149(b) includes provisions seemingly relevant as WRS' proposed interim discharge procedures and proposed Permit modifications will not, "....violate effluent limitations specified in the permit...".

Rule 1151 language clearly identifies an expectation or possibility that non-compliance conditions will exist and discusses "schedules of compliance" which we have referred to as an "interim period" in our communications to DEQ. It is also apparent that the "Commission" would require "updates" or new information about a Permittee's discharge which, logically would not be required if Permittees were expected to operate under static conditions over the term of their Permits.

Rule 2159 is devoted solely to Permit modification or revocation. Modification and schedules of compliance may be initiated upon findings of: changes in any conditions that require temporary reductions of a permitted discharge, violation of a condition of a Permit, or from a Permittee failing to disclose all relevant facts.

R 323.2159 State and national permits; modification or revocation by the commission.
Rule 2159. (1) The commission may modify any term or condition, including a schedule of compliance, of a permit or may revoke a permit upon its finding of any of the following:

(a) There is a change in any condition that requires a temporary or permanent reduction or elimination of a permitted discharge or constituent thereof. .....

(e) There is a violation of any term or condition of the permit.

(f) The permittee has obtained a permit by misrepresentation or has failed to disclose all relevant facts to the commission.

From the above cited rules, Permit modification and establishment of compliance schedules are within DEQ's discretionary authority.

Part 22 Rules – Groundwater Quality

Permit M0086 was authorized under Rule 2218. Subsection (3) deals closely with regulation of the WRS discharge. Subsection 22118(3)(d) and 2218(3)(e) are provided below with emphasis added to key provisions.

(3)(d) **A discharger who proposes to modify the quantity or effluent characteristics of a discharge** shall notify the department of the proposed modification before it occurs. ***If the department determines the proposed modification is minor based on the quantity or quality of the discharge, then the department may modify the permit as requested and include new terms or conditions that may be necessary to ensure that the terms of R 323.2204 are met.*** If the department determines that the proposed modification is significant based on the quantity or quality of the discharge, then the discharger shall submit an application for reissuance under the terms of subdivision (b) of this rule.

(3)(e) **A discharger who proposes to modify the treatment process of a discharge** shall notify the department of the proposed modification before it occurs. Unless the department notifies the discharger within 30 calendar days that the proposed modification may affect compliance with limitations on the quality or quantity of the discharge, the discharger may make the modification. ***If the department notifies the discharger and determines that the proposed modification is minor based on the quantity or quality of the discharge, then the department may modify the permit as requested and include new terms or conditions that may be necessary to ensure that***

terms of R 323.2204 are met. If the department notifies the discharger and determines that the proposed modification is significant based on the quantity or quality of the discharge, then the discharger shall submit an application for reissuance under the terms of subdivision (b) of this subrule.

Language within the administrative rules specifically applicable to the interim period proposed to DEQ are highlighted above. We have proposed to modify the quantity (not application rate) of effluent discharged while maintaining the same chemical characteristics as the current Permit allows. We have also proposed modification to treatment, by including dilution in addition to the dilution already occurring in accordance with Permit conditions as identified in the current Permit Application. With respect to both provisions of subpart (3)(d) and (3)(e) above, we have identified for DEQ in our proposal measures that the Permittee will undertake during treatment, discharge and monitoring that, "ensure that the terms of R323.2204 are met."

Rule 323.2227 identifies the requirements of Dischargers, including Permittees. This Rule is in harmony with provisions of Part 21 Rules in that it provides DEQ discretion in its response to a finding that effluent limits have been exceeded by a Permittee. The harmony arises not only in the expectation that such instances will occur, but also in the measured nature of responses available to DEQ under its discretion. Portions of this Rule are excerpted below.

R 323.2227 Discharger compliance responsibilities.
Rule 2227(2) If the department determines that a limit on the concentration of a substance in effluent or groundwater has been exceeded, then the department may require the discharger to undertake 1 or more of the following activities:
(a) ***Change the monitoring program, including increasing the frequency of effluent monitoring or groundwater sampling, or both.***
(b) Develop and implement a groundwater monitoring program if one is not in place. A groundwater monitoring program established under this provision shall comply with R 323.2223(2).
(c) If the discharge is in a designated wellhead protection area, assess the affects of the discharge on the public water supply system.
(d) ***Review the operational or treatment procedures, or both, at the facility.***
(e) Define the extent to which groundwater quality exceeds the applicable criteria established by the department under section 20120a(1)(a) of the act, if applicable, or under section 21304(a) of the act, if applicable.
(f) ***Revise the operational procedures at the facility.***
(g) ***Change the design or construction of the wastewater operations at the facility.***
(h) ***Initiate an alternative method of waste treatment or disposal.***
(i) If the standard for the substance is established by R 323.2222(5), reduce or eliminate use of the substance.
(j) Close the facility or end the discharge that resulted in the applicable standard being exceeded.
(k) Remediate contamination to comply with the terms of section 20120a and b of the act, if applicable, or section 21304(a) of the act, if applicable.

The DEQ's authority includes a number of responses. These discretionary responses appear, from first to last, to increase in severity. Whether changing the monitoring schedule or closing the facility or remediating contamination, the DEQ has measured response options at its discretion. Presumably, these options are to be invoked in proportion to the severity of consequences resulting from the effluent exceedance. Noteworthy from the above is that none of the responses within DEQ's discretion include requiring the Discharger to apply for a New or Amended Permit as a condition precedent to operation.

JUSTIFICATION FOR DEQ MODIFICATION OF EXISTING PERMIT

The legislature anticipated that Dischargers and Permittees would:

- Modify their processes generating wastes
- Increase the quantity of wastes
- Discharge effluent with characteristics different than anticipated or permitted
- Require time to "come into compliance"

The last expectation supports the realization that the State should allow dischargers the opportunity to improve their operations with the goal of meeting Rule 2204 objectives while continuing their operations. The authority of DEQ to impose conditions leading to compliance with Part 31 and associated rules is discretionary and broad, with the breadth including a range of responses appropriate to each specific condition of non-compliance.

This general emphasis on flexibility of application for discretionary responses is focused for the WRS situation by Rule 2227 and Rule 2218. DEQ in fact cites Rule 2227 in their Notice of Violation (NOV) letter (see Tab #3, page 2, item 4.) as the appropriate response to WRS's discharge of wastewater that:

1. exceeds effluent limitations for sodium, chloride and phosphorous
2. is inconsistent in character with the characterization provided to DEQ during Permit Application

DEQ's elected response to increased levels of dissolved solids in applied effluent and to application of wastewater with a different characteristic (item 1. and 2. above) is provided in the NOV letter. The measured response appropriate is summarized as:

A. Increased monitoring of effluent discharges and
B. Initiate groundwater monitoring

Response A. and B. above are, according to DEQ's NOV letter, to be incorporated into the Consent Order currently under negotiation. This DEQ response has the consequence of providing a "**schedule of compliance**" which is another measured response within the discretion of DEQ to allow the Permittee to "come into compliance" when conditions indicate that they are not compliant with either Rules or permit Conditions. This allows WRS to meet, or demonstrate that they can meet, the requirements of Rule 2204 for protection of waters of the state, while operating their current processes. This is in accord with legislative intent and existing regulation.

No modification is currently sought for effluent volume or effluent character. We have proposed to maintain both the hydraulic loading rate permitted and the chemical composition permit limitations. It has been shown that sufficient daily and annual volume capacity exists within current Permit limitations to discharge wastewater over permitted application areas without exceeding application rate limitations even with the addition of more dilution water that exists as part of permitted process. If one thinks of dilution water addition (along with irrigation) as the wastewater "treatment" under the current Permit, then modification of the current permit to allow alternate treatment (fresh water added in excess of the current dilution amount) is not strictly necessary. Nonetheless, a permit modification should be sought in accordance with Rule 2218(3)(e).

Technical rationale in support of DEQ's modification are readily available. First, the process of cherry finishing and packing is not substantially different from the process of stemming and pitting. Wastewater characteristics are similar in that the origin of waste properties arise from the same source, the brine that cherries have been processed with. The only significant difference between the two processes is the degree to which dilution water is added to the process residual brine.

With cherry stemming and pitting, brine is introduced through conveyance operations as well as through diffusion from the fruit into the fresh process water. Stemming and pitting operations utilize fresh water in fruit conveyance and the physical damage to fruit imparted by punching the pits and pulling the stems opens the fruit and increases fruit surface area. When fresh water comes in contact with semi-permeable fruit membranes, the chemical concentration gradient drives chemical diffusion forces and osmotic pressures that transfer brine constituents, sugars and amino acids to the fresh water, thereby generating part of the character of pitting and stemming wastewater. The remainder of the wastewater character development comes through dilution of process wastewater by addition of other waters including conveyance water and wash water.

During cherry finishing operations, the pitted, stemmed and halved brine cherries from the above described operation are transferred from brine-filled transport lugs (the same lugs used to transfer cherries to stemming equipment) to soaking vats. In the vats, fresh water is added to brine cherries so that diffusion and osmosis can transfer sulfites from the fruit to the soaking water.

The amount of fresh water addition is variable and is dependent in part upon water temperature and the quality of the brined cherries. As with stemming and pitting, the waste character is generated by this transfer of wastes from the fruit to the process water. Fresh dilution water is continuously added to the soaking vats or it is added in batch mode. The initial wastewater character is modified by the addition of dilution water. The dilution water from finishing is likewise composed of wash water and conveyance water.

The only substantial difference in the genesis of wastewaters from these processes is the volume of dilution water added to the process water. In both processes the wastewater obtains its waste characteristics from transfer of sugars and dissolved solids from fruit to the processing water. The use of flavoring and coloring agents in the latter stages of finishing provides inconsequential difference in the character of the wastewater between the stemming/pitting process and the recently adopted finishing process. Coloring agents are Food and Drug Commission approved products safe for human consumption. Flavoring agents are sugars, such as corn syrup and dextrose with food grade stabilizing agents. Both additives in the finishing stages are diffused into the fruit through soaking and the coloring/flavoring agents are reclaimed for use in subsequent batches. Minor (de minimis) amounts of flavor/color agents enter into plant effluent through wash water.

Other technical rationale for modification of the current Permit are also available. Review of the Permit Comparison Table (see Page 2 above) indicates that DEQ's predecessor agency permitted (1993), at this very site and in the same area of the site, the application of wastewater which has the same genesis as that described above for stemming/pitting and finishing. The 1993 Permit wastewater source was diluted brine containing the same sugars and dissolved solids as exists in the current Discharger's effluent.

The 1993 Permit allowed greater hydraulic loading rates and greater daily effluent irrigation volume than the current Permit for the same area of the site. The annual effluent limitation is lower in the 1993 permit, however this is solely due to Gray and Company's Permit Application, which requested discharge for only 180 days per year. If their permitted annual effluent volume limitation were doubled to afford them year-round operation, then their annual effluent volume limitation would actually be greater than that in the current Permit (16MMgal versus 15MMgal).

Under the original Permit, the DNR required effluent limitations for chemicals that are identical to those in the existing Permit, save the limitation for Phosphorous, which was four (4) fold greater in the original Permit. Both permits required Bray P1 testing of soil to monitor the uptake of Phosphorous in the hydrogeologic system. It is important to note that all the chemical limitations in the current Permit are "generic" limitations that follow the DEQ's "preventative" philosophy which framed development of Part 22 Rule amendments in 1999. None of the effluent limitations for chemicals in either Permit are site-specific values. All are generic values contained in Rule 323.2222 of Part 22 Rules.

The most substantial technical difference between Permit conditions under the original and current Permit are the groundwater monitoring requirements under the prior Permit. The May NOV letter indicates that groundwater monitoring will be required as a component of the pending Consent Order. Therefore, it would appear that modification of the existing Permit to closely reflect the prior Permit conditions is imminent. This suggests that the DEQ implicitly agrees that the underlying genesis of wastewaters between original and current Dischargers is not substantially different.

SUMMARY

It appears that in processing brined cherries there is no real difference in composition of wastewater from individual processes, save the amount of fresh dilution water that is added during each sub-process. The chemical characteristic of each wastewater is due to contact of fresh water with residual brine on and in the brine cherry. The concentration of these chemicals is controlled solely by the dilution water.

Therefore; existing, "generic" Permit limitations for chemical substances are equally protective of groundwater whether the process in question is processing brine cherries or diluting and irrigating spent cherry brine. The only important matter with regard to both extremes is the assurance that sufficient dilution of the wastewater occurs so that Rule 2204 considerations are ensured.

With regard to modifying the existing Permit to reflect a "new" process, it is clear DEQ has that ability in their discretion. Current enforcement posture suggests that DEQ is going to modify the Discharger's compliance requirements under Part 31 to include groundwater monitoring and evaluations to ensure that prior effluent limitation exceedances have not resulted in an unacceptable impact to groundwater resources. Since the Discharger seeks modification and the DEQ requires modification for compliance with discretionary Rule 2227 requirements, then it follows logically that DEQ modify other conditions of the current Permit in accordance with Rule 2218.

There is no need to require a new Permit Application at this time. The extremes of brine cherry wastewaters are bounded by the character of:

- wastewater included in the application for the current Permit M0086, and
- diluted spent brine solutions permitted for discharge under original Permit M0086

Sufficient information is already in DEQ's possession regarding the process generating WRS's wastewater. Our "interim proposal" includes the acquisition of yet more data to confirm what is currently available to the DEQ. WRS's wastewater is intermediate in character between the above extremes and both extremes have been permitted at this site, in the same area for land application under the same Permit.

Permit modification is a desirable administrative procedure to address additional operational steps that are proposed in the further "dilution" treatment of the WRS wastewater. Permit modification is also desirable to expedite changes in operations that will facilitate compliance with Rule 2204, while providing a "compliance schedule" as the operations continue at the plant. Adequate monitoring and operational controls have been proposed in the initial "interim period" to ensure attainment of Rule 2204 goals and Rule 2222 standards. The DEQ has the discretionary authority to modify the current Permit in support of these important objectives.

Please let me know if this analysis is helpful or if you require additional information.

Respectfully submitted,
INLAND SEAS ENGINEERING, INC.

Andrew Smits, P.E.
Environmental Engineering
Department Manager

enc.
cc:
Mr. Edgar Roy III
TPE- ISE/tc

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1023 Business Park Drive
P.O. Box 2127
Traverse City, MI 49685-2127
616 941-2025

Environmental Solutions, Inc.

February 21, 2000

Mr. Scott Ross
Waste Management Division
Chief of Groundwater Permits
Michigan Department of Environmental Quality
PO Box 30241
Lansing, Michigan 48909

RE: Application for Exemption Status, Rule 2210(y) for
Williamsburg Receiving and Storage, 10190 Munro Road, Whitewater Township,
Williamsburg, Michigan

Dear Mr. Ross:

Enclosed are two copies of an application for Williamsburg Receiving and Storage for an exemption according to Rule 323.2210(y) of the Michigan Natural Resources and Environmental Protection Act of 1994, PA 451 as amended. The rule states that "A person may discharge the following without a permit that would otherwise be required by part 31 if the discharge meets the requirements of Rule 323.2204:...(y) A discharge that has been determined by the Department to have an insignificant potential to be injurious based on volume and constituents. In making the determination the Department shall follow the public notice and comment procedures of Rule 323.2117 and Rule 323.2119. The department may establish criteria, limitations, or conditions applicable to the discharge to ensure that it meets the terms of this subdivision."

Through this letter, we will provide a summary of the process under consideration for exemption and will provide a demonstration to support applicability of the exemption to the process described.

[redacted]

Williamsburg Receiving and Storage currently processes cherries during the cherry harvesting season, stores these cherries in brine solution, and ships the cherries to customers for further processing and use. [redacted] Approximately twenty percent of the brine utilized for shipment must be made in addition to what has been utilized for storage of the cherries.

The facility has recently renewed wastewater permit number MI 0044741, which allows the discharge of cooling water during harvesting season. This water is in contact with the fresh cherries only, and a maximum of 1.3 million gallons per day is discharged from the facility to Tobeco swamp between June and August.

The facility is currently installing equipment to [redacted] A schematic of the process is included in the application. The cherries are pumped from brine storage through a food pump and food grade lines to the dump tank. The cherries are then pumped through an initial misting stage at the debrining eliminator. Residual brine is removed at this stage from the cherries. The initial stage will utilize approximately three gallons of water per minute. Water discharged from this process will be recycled to brine storage. The cherries are then sent through a destemmer and six pitters. The process at Williamsburg Receiving and Storage does not require water for transport; the process prefers as little water as possible as transport is conducted via conveyor. At each of these stages, a maximum of five gallons per minute is utilized, bringing total maximum usage pitting and discharge stages to 35 gallons per minute. This flow will be recycled through the pitters to the extent practicable. A maximum operating schedule is anticipated to be 20 hours per day, and the amount of discharge from the facility would be a maximum of 42,000 gallons per day. The facility is proposed to operate year round, seven days a week.

[redacted]

The facility is in the process of constructing a lined pond with a holding capacity of 1.5 million gallons. The effluent will be utilized for irrigating cherry fields on the applicant's property as well as cherry farms on adjacent properties (refer to Site Map 2 in application). The total acreage for groundwater application is approximately eighty acres. Application at the effluent will be through aerial spray and trickle irrigation. This application will be rotated as necessary to ensure crop and land stability. Visual inspections of the irrigations will be made prior to, during and after irrigation to evaluate pooling, ponding, and runoff. As maximum discharge on a daily basis will be 42,000 gallons, average daily discharge is expected to be much lower than this amount.

[redacted]

Table I illustrates the quality of the expected effluent. Samples were collected from the pitting operation at a comparable facility, however, one major difference at the facility where samples were collected is that there is not an initial debrining elimination stage. This means that concentrations of some constituents, particularly chlorides, are higher than what is expected at Williamsburg Storage and Receiving. The samples were collected within a four-hour time period and were tested and measured against discharge standards provided in Rule 323.2222. The average value, standard deviation, standard error, and upper control limits are shown for each parameter tested, as described in "Guidesheet III, Characterization of Wastewater", provided by the Michigan Department of Environmental Quality. Results were calculated at a 95 percent confidence level.

The results indicate that all parameters tested are expected to be within the required discharge standards. The upper control limit for chloride concentration exceeds the groundwater application standard, however, since the process at Williamsburg will be recycling the effluent from the eliminator stage, where chloride concentrations are highest, a result lower than the standard is expected. Refer to Figure 1 for assumptions and calculations of expected discharge concentrations. [redacted] below the 250 mg/l standard.

Analysis of Alternatives

Rule 323.2217 requires certification that the applicant has identified and considered steps to avoid or minimize the use and discharge of pollutants authorized to be discharged. Recycling from the eliminators to the brine solution, utilization of a "dry" transport process, recycling internally at the pitters and destemmers, and utilization of the discharge to support and enhance existing cherry farms all contribute to minimization of waste. By utilizing the discharge on existing fields and cherry farms, waste disposal is also minimized at alternative waste treatment facilities.

Recommendations

Based on the analytical results and the limited discharge rates, an exemption from permitting according to Rule 323.2210(y) should be granted. It is worth noting that a previous hydrogeological study has been conducted on the proposed discharge area, and based on this study, it was concluded that 94,000 gallons per day of brine solution would not have a detrimental impact on the land. Furthermore, the Right to Farm Act of Michigan allows a farmer to irrigate lands without additional permitting requirements.

We trust that the information provided is sufficient to meet the requirements of the exemption. If necessary, assumptions for any of the testing parameters can be confirmed prior to discharge. We also understand that Rule 323.2210(y) requires public notice. Please let us know how we can assist you in processing this application, so that we may proceed with irrigation on the described land.

If you have any questions regarding the referenced information, please contact me at (231) 941-2025, extension 104.

Sincerely,

ENVIRONMENTAL SOLUTIONS, INC.

Diane C. Lundin
Industrial Management Specialist

pc: Chris Hubbell
Ed Roy
Janice Heuer – Michigan Department of Environmental Quality

enc.

Figure 1: Chloride Concentration Estimates

F_{WF} = Total flow rate at Williamsburg: 6 Pitters @ 5 gallons/minute + 1 Destemmer @ 5 gallons/minute + 1 Debrining Eliminator @ 3 gallons/minute = 38 gallons per minute

Comparable to anonomous facility where samples were collected, however, at Williamsburg, the Debrining Eliminator flow is recycled to the brine. Concentration at the eliminator is higher than at the pitters and destemmers. From previous hydrogeology study conducted at Williamsburg, the concentration of chloride in brine solution is 4,000 mg/l. If we assume approximate dilution by ½ at the eliminator, the concentration would be 2,000 mg/l. Therefore, C_{DB} = Concentration at Debrining Eliminator = 2,000 mg/l

To calculate the estimated concentration at Williamsburg, the concentration at the Debrining Eliminator can be subtracted from overall results. Using one minute as a basis, the following formula can be utilized:

$$C_{WF} = \{(C_{AF} * F_{AF} * K_{GL}) - (C_{DB} * F_{DB} * K_{GL})\} / \{(F_{WDIS} * K_{GL})\}$$

Where:

C_{WF} = Chloride Concentration at Williamburg Facility, mg/l
C_{AF} = Chloride Concentration at Anonymous Facility, UCL, mg/l
C_{DB} = Chloride Concentration at Debrining Eliminator, mg/l
F_{AF} = Flow at Anonymous Facility, assume comparable to Williamsburg total flow, gallons
F_{db} = Flow at Debrining Eliminator, gallons
F_{WDIS} = Maximum flow to be discharged at Williamsburg Facility
K_{GL} = Constant, Gallons to Liter conversion

Substituting into the equation:

C_{WF} = {(374 mg/liter * 38 gallons * 3.8 liters/gallon) - (2000 mg/liter * 3 gallons * 3.8 liters/gallon)} / {35 gallons * 3.8 liters/gallon} = **234 mg/liter**

Utilizing this equation, the estimated concentration of chloride in the effluent at the Williamsburg facility is expected to be 234 mg/liter. Assumptions were: comparable flows at both facilities, dilution at debrining eliminator, which is recycled at Williamsburg, to 2000 mg/l (stronger brine concentration would make final value go down), and maximum flow discharge.

TABLE 1 - PITTING TEST SAMPLE RESULTS

Analyte	*Detection Limit*	*GW Rule Limit (ug/l)*	*AVG*	*STD DEV.*	*ERROR*	*UCL*
Sodium	1 mg/l	15,000	99.50	614.33	12.39	128.66
Chloride	1 mg/l	25,000	285.00	5633.33	37.53	373.30
Sulfate	2 mg/l	25,000	48.25	8.92	1.49	51.76
Phosphorous	.01 mg/l		2.78	0.22	0.23	3.32
Total Inorganic Nitrogen	.01 mg/l	5	3.13	0.06	0.13	3.42
Ammonia	.01 mg/l		1.25	0.07	0.13	1.56
Nitrate	.01 mg/l		1.83	0.00	0.03	1.88
Nitrite	.01 mg/l	0.5	0.03	0.00	0.00	0.03
Calcium	1 mg/l		212.50	1225.00	17.50	253.68
Iron	.02 mg/l	0.3	0.17	0.00	0.00	0.18
Magnesium	1 mg/l		22.00			22.00
Potassium	.1 mg/l		35.50	91.67	4.79	46.76
Bicarbonate	10 mg/l		92.25	13.58	1.84	96.59
Carbonate	10 mg/l					undetected
Fluoride			0.33	0.00	0.03	0.39
Hardness (Ca_2CO_3)	5 mg/l		617.50	8091.67	44.98	723.33
Conductivity	1.0 umhos/cm		1525.00	75833.33	137.69	1848.98
[redacted]	400 mg/l		1025.00	[redacted]	137.69	[redacted]
pH			6.52	0.17	0.20	7.00

Utilize "Test Methods for Evaluation of Solid Waste, Physical-Chemical Methods", SW-846, 3rd Edition, 9/86 as updated through 8/26/99 or "Guidelines Establishing Test Procedures for the Analysis of Pollutants," 40 CFR Part 136.

1023 Business Park Drive
P.O. Box 2127
Traverse City, MI 49685-2127
616 941-2025

COPY

ESI

Environmental Solutions, Inc.

May 15, 2000

RECEIVED APR 1 2 2002

Mr. Chris Hubbell
Williamsburg Receiving and Storage
10190 Munro Road
Williamsburg, Michigan 49690

Dear Chris:

Attached is the complete copy of the public notice and the draft permit renewal for discharge of cooling water from your facility. Jeff Fisher has informed me that no comments have been received to date. The comment period ends on May 29. If no adverse comments or requests for public hearings are received, the permit should be issued right after that.

I also discussed the groundwater permit application with Lonnie Lee and Tom Weston of MDEQ today. [redacted] application rate of the spray system, however, after discussing the rates and recalculating, [redacted] As a result, this should help facilitate permit issuance, as hydrogeological work should not be expected.

Tom Weston will call again today after a discussion with Bob Deatrick, Soil Scientist at MDEQ, regarding the Irrigation Management Plan. Toms opinion was that at the lower application rates, they should be able to write the permit with the information that has been submitted. I will keep you posted on any other discussions we may have.

Please feel free to call me at (231)941-2025, extension 104, if you have any questions.

Sincerely,

ENVIRONMENTAL SOLUTIONS, INC.

Diane C. Lundin

pc: Edgar Roy III

enc.

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
CADILLAC DISTRICT OFFICE

JOHN ENGLER
GOVERNOR

RUSSELL J. HARDING
DIRECTOR

May 6, 2002

HAND DELIVERED BY JQ
5-7-02 9

CERTIFIED MAIL
RETURN RECEPT REQUESTED

Mr. Chris Hubbel
Williamsburg Receiving and Storage
10190 Munro Road
Williamsburg, Michigan 48690

Dear Mr. Hubbel:

SUBJECT: Williamsburg Receiving and Storage
State Groundwater Discharge Permit Number M 00836
National Pollutant Discharge Elimination System Permit Number M10044741

On March 11, 2002, the Department of Environmental Quality (DEQ) met with Williamsburg Receiving and Storage, LLC, (WRS) to discuss a proposed Consent Order (Proposed Order) regarding the WRS site in Williamsburg (Site). The Proposed Order was prepared to address violations of State Groundwater Discharge Permit Number M 00836 (Groundwater Permit), National Pollutant Discharge Elimination System Permit Number M10044741 (NPDES Permit), and Part 31, Water Resources Protection of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.101 et seq., (Part 31), and the rules promulgated under Part 31. These violations were outlined in the Notice of Violation dated February 11, 2002, from Mr. Jim Sygo and Mr. Dave Hamilton of the Waste Management and Surface Water Quality Divisions, and a December 4, 2001 letter from DEQ staff.

The following additional violations have been documented at the Site since the March 11, 2002 meeting:

1. **Continued unpermitted discharges to the wetlands adjacent to Munro and Angell Roads in violation of Sections 3109(1) and 3112(1) of the Natural Resources and Environmental Protection Act (NREPA).** On March 13, 2002, DEQ staff observed and sampled an unauthorized discharge from a pipe leading from the Site into the road ditch along Munro Road and emptying into the wetland. A letter dated March 18, 2002, from Mr. Rick Banwell, representing WRS, claimed that the discharge was the result of snow melt and runoff from the Site. However, the sample obtained by DEQ staff shows that the discharge was contaminated with suspended solids (52.9 milligrams per liter [mg/l]) and high concentrations of Biological Oxygen Demanding substances (218 mg/l), not indicative of snowmelt or runoff. WRS does not have a permit for this discharge, in violation of Section 3112(1) of the NREPA. Furthermore, the discharge of these substances has been determined to be harmful to aquatic life, in violation of Section 3109 of the NREPA, which states, in part "*A person shall not directly or indirectly discharge into the waters of the state a substance that is or may become injurious to ... livestock, wild animals, birds, fish, aquatic life, or plants...*" On May 2, 2002, the DEQ also observed

unauthorized discharges from the Site to the road ditch along Munro Road, which flows into the restored wetland south of Angell Road.

2. **Overapplication of wastewater to the ground during the first quarter of 2002, in violation of the Groundwater Permit.** On April 16, 2002, the DEQ received from WRS a copy of the Compliance Monitoring Report (CMR) for the first quarter of 2002, which reported a wastewater discharge of 1.0 inch per day and 2.0 inches per week to the irrigation fields at the Site. Condition A of the Groundwater Permit limits the application rate of wastewater at the Site to 0.4 inches per day and 0.4 inches per week during the fall and winter irrigation season. Failure by WRS to comply with the application rates is in violation of Condition A of the Groundwater Permit.

3. **Ponding and nuisance odors at the irrigation area in violation of R 323.2204(2)(b).** An April 4, 2002 site inspection by DEQ staff found wastewater ponding and erosion in the irrigation area, conditions also indicative of overapplication. On April 16, 2002, and April 17, 2002, DEQ staff received odor complaints about the Site, which described a putrid, anaerobic-rotting smell coming from the fields, and a sharp brine odor from the lagoon. The overapplication of wastewater may have caused anaerobic conditions in the irrigation areas resulting in these odors. These conditions are in violation of R 323.2204(2)(b).

4. **Excessive concentrations of sodium, chloride, and phosphorus were discharged to the ground during the first quarter of 2002, in violation of the Groundwater Permit.** The CMR from WRS shows that the WRS discharge to the ground during the first quarter of 2002 contained sodium at 291 mg/l, chloride at 650 mg/l and phosphorus at 3.16 mg/l. Condition A of the Groundwater Permit limits the concentration of sodium to 150 mg/l, chloride to 250 mg/l, and phosphorus to 1 mg/l. The discharge of these substances in excess of the permitted limits is in violation of Condition A of the Groundwater Permit. The high concentrations of these substances in the discharge are also inconsistent with the waste characterization provided to DEQ staff prior to issuance of the Groundwater Permit, and subject WRS to the discharger compliance responsibilities specified in R 323.2227.

Because of the violations noted above, the DEQ intends to modify the Proposed Order to do the following:

- Reference the unpermitted discharge from the Site documented on March 13, 2002, and assess additional penalties for this violation.
- Require that stormwater provisions be added to WRS' NPDES Permit, in accordance with 40 CFR 122.26(b)(14).
- Reference violations of the Groundwater Permit and Part 31 rules at the Site during 2002, and assess additional penalties for these violations.
- Require a revised monitoring program to adequately characterize and evaluate the discharge in accordance with R 323.2227(2)(a).
- Require development and implementation of a groundwater monitoring program in accordance with R 323.2227(2)(b).
- Require, if necessary to achieve compliance with Groundwater Permit limits, additional

steps under R 323.2227(2), including but not limited to revised operational procedures, or design and construction of upgrades to the treatment system.

During the March 11, 2002 meeting, you indicated you would submit to the DEQ 1) all available compliance monitoring data required under the Groundwater Permit, 2) information regarding the present design of brine storage lagoons at the Site, 3) a drawing that maps out all discharge piping at the Site, 4) a modification of the NPDES permit for a new discharge point, and 5) a request to modify the Groundwater Permit to include additional fields. Except for the first quarter 2002 monitoring report, none of this information has been submitted to the DEQ to date. Please submit this information to DEQ staff no later than May 24, 2002.

In addition to the information listed above, please clarify the relationship between WRS and Cherry Blossom, LLC. As you know, the Proposed Order currently lists WRS as the owner and operator of the Site. However, your new letterhead includes the title Cherry Blossom, LLC.

Please be advised that the WRS NPDES Permit only authorizes treated contact cooling water discharges through outfall 001. Except as authorized by the Groundwater Permit, any other discharges to the waters of the state, including the wetland restoration area on Angell Road, are not authorized and are violations of Part 31.

Staff of the DEQ intends to modify the Proposed Order as soon as possible and provide WRS with a redraft for your consideration. In the meantime, if you have any questions regarding these matters, please contact Ms. Janna Sebald at 517-335-4143, Mr. Rick Rusz at 517-335-4709, or you may contact us.

Sincerely,

Philip Roycraft, District Supervisor
Waste Management Division
231-775-3960, Extension 6200

Michael Stifler, District Supervisor
Surface Water Quality Division
231-775-3960, Extension 6260

cc: Whitewater Township
Mr. Joe Quandt, Menmuir, Zimmerman, Kuhn, Taylor and Quandt, PLC
Mr. Robert Reichel, Department of Attorney General
Mr. Rick Rusz, DEQ-Lansing
Ms. Janna Sebald, DEQ-Lansing
Ms. Sy Paulik, DEQ
Ms. Janice Heuer, DEQ

PERMIT CONDITIONS

PART I

A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

1. Authorization

During the period beginning with the issuance of this permit and lasting until August 1, 1998 the permittee is authorized to discharge a maximum 94,000 gallons per day (8 million gallons per year) of dilute cherry processing brine wastewater to the ground at a site located in the SW 1/4 of the SW 1/4 of Section 9, T28N, R9W, Whitewater Township, Grand Traverse County, Michigan.

2. Wastewater Limitations and Monitoring Requirements

The fruit processing wastewater and irrigation fields shall be limited and monitored by the permittee as specified below. Analyses and inspections shall be conducted for the parameters listed below at least at the frequencies indicated. Reports of such monitoring shall be submitted to the Michigan Department of Natural Resources in accordance with Part I, Section E of this permit. Irrigation fields shall be designated as Fields 1, 2 and 3.

Sample/Monitoring and Location	Limitations	Measurement Frequency	Sample Type
Process Wastewater Irrigation Flow			
Daily (gal/day)	94,000 (max.)	Weekly	Total
Yearly (gal/year)	8,000,000 (max.)	Yearly	Total
pH (S.U.)	6.0 to 8.0	Twice Monthly*	Grab
Sodium	150 mg/l	Twice Monthly*	Grab
Chloride	250 mg/l	Twice Monthly*	Grab
Sulfate	250 mg/l	Twice Monthly*	Grab
Phosphorus	4 mg/l	Twice Monthly*	Grab
Total Inorganic Nitrogen**	5 mg/l	Twice Monthly*	Calculation
Ammonia-Nitrogen		Twice Monthly*	Grab
Nitrate-Nitrogen		Twice Monthly*	Grab
Nitrite-Nitrogen		Twice Monthly*	Grab

(continued on following page)

Sample/Monitoring and Location	Limitations	Measurement Frequency	Sample Type
Irrigation Fields			
Irrigation Season: May 1 through October 31			
Irrigation Rate	1 in/day (max.)	Weekly	Measured or Calculated
	2.5 in/week (monthly average)	Monthly	Calculated
	4.0 in/week (max.)	Weekly	Measured or Calculated
Inspection		Daily during discharge	Visual Observation
Soil pH***	6.1-7.5 S.U.	****	Grab
Soil Testing***		Annual	Grab
Brine Pits			
Freeboard	1 ft. (min.)	Weekly	Visual Observation
Inspection		Daily during discharge	Visual Observation

*Effluent samples shall be collected from the batch mixing tank.

**Total Inorganic Nitrogen is the total of ammonia plus nitrate plus nitrite, expressed as nitrogen. This limitation is based on best available technology. The limit may be lowered should economically available technology or management practices be developed.

***Soil tests shall be conducted and reported in accordance with the methods and procedures described in Part I, Section D.3 of this permit. The initial soil testing shall be conducted in 1994. Soil testing results shall be submitted by May 15 of the year in which the soil testing was conducted.

****Soil pH for each irrigation field shall be submitted by May 15, August 15 and November 15 each year.

3. Irrigation Management

The permittee shall irrigate fruit processing wastewater in accordance with the following restrictions, at a minimum:

a. In no case shall fruit processing wastewater be irrigated in a manner that results in pooling or runof of the wastewater.

b. Irrigation areas shall be inspected daily during discharge prior to, during, and after irrigation to make an evaluation of pooling, ponding, runoff, and odors. In the case of runoff off-site occurring, irrigation to the area in use shall be discontinued immediately and provisions made to repair erosion conditions and prevent reoccurrence of runoff (i.e., lessen use of the area, build berms, etc.).

c. Sprinklers shall be examined daily during discharge to assure that they operate properly and are not clogged.

d. In no case shall the operation of the disposal site create a nuisance odor condition that may cause for neighbors an "unreasonable interference with the comfortable enjoyment of life and property".

e. Fruit processing wastewater shall not be applied within 150 feet of private drinking water wells, and 150 feet from property lines, unless the owner of the adjacent land gives written consent to application up to 50 feet from the property line. In no case shall fruit processing wastewater be applied within 50 feet of the property line. The isolation distances shall be measured from the periphery of the spray area, not from the sprinkler heads.

f. The spray irrigation fields shall be under active cultivation and occupied by a crop which is to be harvested at least once per year.

g. The soil in the irrigation fields shall be allowed to drain and aerate for a rest period equal to or greater than the amount of time that the irrigation takes place on a weekly basis.

4. Brine Pit Inspection

Any problems with dike integrity (for example, erosion or animal burrowing) shall be reported immediately to the Waste Management Division District Office. Vegetation shall be kept groomed to discourage animal burrowing. Adequate freeboard shall be maintained to prevent brine pit overtopping.

5. Other Monitoring Programs

Other wastewater monitoring programs may be substituted for the one required above if required or approved by the Waste Management Division, Michigan Department of Natural Resources.

B. GROUNDWATER LIMITATIONS AND MONITORING REQUIREMENTS

1. Groundwater Monitoring Program

The groundwater monitoring program shall consist of at least thirteen (13) monitor wells located adjacent to the brine pits and the proposed irrigation field.

2. Groundwater Limitations and Monitoring Requirements

The disposal of fruit processing wastewater shall not cause the groundwater quality to exceed the limitations listed below.

All groundwater monitoring wells shall be sampled and the groundwater analyzed for the parameters listed below at least at the frequencies indicated. Reports of such monitoring shall be submitted to the Department of Natural Resources on a monthly basis in accordance with Part I, Section E of this permit. The monitoring wells shall be designated MW-A, MW-B, MW-C, MW-E, MW-F, MW-G, MW-H, MW-I, MW-J, MW-K and MW-L.

PARAMETERS	CONCENTRATION LIMITATIONS	FREQUENCY OF ANALYSIS	SAMPLE TYPE
Static Water Elevation		Quarterly	Reduced to USGS Datum
pH		Quarterly	Grab
Dissolved Sodium	150 mg/l	Quarterly	Grab
Chloride	250 mg/l	Quarterly	Grab
Specific Conductance		Annual	Grab
Total Inorganic Nitrogen*	5 mg/l	Quarterly	Calculation
Ammonia Nitrogen		Quarterly	Grab
Nitrate Nitrogen		Quarterly	Grab
Nitrite Nitrogen		Quarterly	Grab
Dissolved Calcium		Annual	Grab
Dissolved Magnesium		Annual	Grab
Dissolved Potassium		Annual	Grab
Dissolved Iron		Annual	Grab
Sulfate	250 mg/l	Quarterly	Grab
Bicarbonate		Annual	Grab
Total Phosphorus	1 mg/l	Quarterly	Grab

*Total inorganic nitrogen is the total of ammonia plus nitrate plus nitrite, expressed as nitrogen. This limitation is based on best available technology. The limit may be lowered should economically available technology or management practices be developed.

Quarterly monitoring shall be done in the months of March, June, September and December. Annual monitoring shall occur in September.

3. Other Monitoring Programs

Other groundwater monitoring programs may be substituted for the one required above if required or approved by the Waste Management Division, Michigan Department of Natural Resources.

4. Static Water Elevation Measurement

   a. Water level measurements are to be made under static conditions prior to pumping for sample collection.

   b. Water levels shall be determined by methods giving precision to 1/8" or 0.01'. (Example: wetted tape method.)

   c. Measurements shall be made from the top of the casing with the elevation of all casings in the monitor well system related to a permanent reference point, using United States Geological Survey (USGS) datum. Static water level shall be reported as an elevation reduced to USGS datum.

   d. All wells shall be securely capped when not in use.

5. Sample Collection From Monitor Wells

   a. Well purging equipment and sampling techniques must be such that collection of the groundwater sample does not significantly alter the water chemistry.

   b. An adequate amount of water necessary to collect a representative sample (but not less than three times the amount of water in the well and gravel pack) shall be exhausted from the well before taking a sample for analysis. In the case of very low permeability soils the well may have to be exhausted and allowed to refill before a sample is collected. As soon as enough water is available in the well, a sample shall be collected.

   c. Bailing and pumping equipment shall be thoroughly cleaned and rinsed before use in each monitor well.

   d. A pressure tank shall not be used with a sampling system since the water in the pressure tank would be particularly difficult to exhaust.

   e. Water pumped from each monitor well should be disposed of according to a sampling and analysis plan approved by the Hydrogeologic Review Unit, Groundwater Section, Waste Management Division.

   f. Samples must be collected, stored, and transported to the laboratory in a manner consistent with Part I, Section E of this permit.

C. SCHEDULE OF COMPLIANCE

1. Construction Schedule

a. Approval of Plans

Prior to construction of any new or modified wastewater treatment system, the permittee shall obtain approval of plans and specifications from the Waste Management Division, Michigan Department of Natural Resources.

b. Commencement of Construction

The permittee shall notify the Waste Management Division, Michigan Department of Natural Resources in writing of the proposed schedule for construction of any new or modified wastewater treatment facilities at least two (2) weeks prior to commencing construction.

c. Construction Certification

Upon completion of the construction or modification of any facilities the permittee shall notify in writing to the Waste Management Division, Michigan Department of Natural Resources that the facilities are constructed in accordance with the approved plans and specifications.

d. Start-Up Notification

The permittee shall give the Waste Management Division, Michigan Department of Natural Resources written notification prior to the date of the start-up of any new or modified facilities. This notification requirement only applies to facility expansion, production increases, process modifications, or other changes in operations or conditions which will not result in a new or increased volume or change in composition of the discharge. Changes which will result in a new or increased volume or change in composition of the discharge must be authorized by a new permit or modification of this permit, as required in Part II, Section A.1.

2. Groundwater Monitor Well Installation

Monitor wells shall be installed in accordance with the following schedule. All submittals shall be forwarded to the Waste Management Division, Michigan Department of Natural Resources for approval.

a. By September 30, 1993, the permittee shall submit to the Waste Management Division, Groundwater Section, Department of Natural Resources, a workplan for the installation of monitor wells MW-K and MW-L. The workplan shall include the proposed location of the well(s), well construction materials, installation methods (including annular sealing) and the depth and USGS screened interval for each well.

b. Within 90 days of approval of the workplan described above, the permittee shall install the monitor wells according to the workplan approved by the Hydrogeologic Review Unit, Groundwater Section, Waste Management Division, Department of Natural Resources.

c. Within 30 days of completion of the installation of the monitor wells, the permittee shall submit to the Groundwater Section, Waste Management Division, Department of Natural Resources, copies of all well logs for observation and monitor wells installed at the facility, a table of USGS ground, top of casing and screened interval elevations for each well at the facility, a map showing the surveyed locations of all wells on site and an updated groundwater contour map, incorporating static water levels from all wells on site. Well location information shall be verified annually.

3. Background Groundwater Quality Data

All groundwater monitor wells shall be sampled and tested monthly for all parameters given in Part I, Section B of this permit for the first six (6) months following installation of the well (or following the date of issuance of this permit, if the wells are existing and this data has not previously been obtained). After this background data has been obtained, the frequency of analysis shall be as stated in Part I, Section B of this permit.

4. Irrigation Management Plan

Within 90 days of issuance of this permit the permittee shall submit to and receive approval from the Waste Management Division, Michigan Department of Natural Resources for an Irrigation Management Plan describing the fields proposed for irrigation of fruit processing wastewater. The report shall include: a location map; a site map indicating buffer zones, soil series, slope, proposed crops and irrigation rates and a description of procedures which will assure that effluent limitations contained in Part I.A.2. of this permit will be met.

The plan shall also include procedures for routine maintenance and inspection of equipment used for irrigation. Any changes from the approved irrigation management plan must receive approval from the Waste Management Division, Michigan Department of Natural Resources prior to implementation. Any operation inconsistent with the approved Irrigation Management Plan shall be considered a violation of this permit.

D. SPECIAL CONDITIONS

1. Odor Control

a. In no case shall fruit processing wastewater be transported, stored or irrigated in a manner that creates a nuisance odor condition or causes for neighbors an "unreasonable interference with the comfortable enjoyment of life and property".

b. After a determination by and written notification from the Chief, Waste Management Division, in consultation with the Air Quality Division, that fugitive odor emissions from the permittee's operations conducted pursuant to this permit are causing an unreasonable interference with the common public right to live free from foul or noxious odors, the permittee shall immediately cease the operations until the cause of the odors can be corrected to the satisfaction of the Chief, Waste Management Division, Michigan Department of Natural Resources. The notification shall include the reasons for this determination. The permittee shall within two weeks of notification submit an odor control plan for approval by the Chief of the Waste Management Division. The permittee shall not restart the operations until the Chief of the Waste Management Division has approved the restart in writing. Information submitted by the permittee indicating the odors have been eliminated shall be evaluated by the Waste Management Division as expeditiously as possible. The Chief of the Waste Management Division may require an upgrade of the waste disposal system in order to accomplish odor control.

2. Closure Plan

a. Submittal of Plan

In the event that all or partial discharges from the facility are planned to be eliminated, the permittee shall submit for approval a closure plan to the Cadillac District Office of the Waste Management Division, Michigan Department of Natural Resources for the wastewater treatment and disposal areas. This plan shall be submitted at least 180 days prior to the planned closure. The closure plan cannot be implemented without approval of the Cadillac District Office of the Waste Management Division, Michigan Department of Natural Resources.

In the event of an unforeseen partial or total elimination of discharge from the facility, the permittee shall retain responsibility for closure requirements.

b. Criteria

The closure plan shall include:

1. Characterization of wastewater and residuals (sampling, parameters).

2. Disposal methods (pump-and-haul, landfilling, land application, based on characterization).

*3. Site remediation (extent of contamination, scope of remediation).

*4. Site restoration (backfilling, final cover, scraping, future use).

*5. Post-closure groundwater monitoring proposal (number and location of monitoring wells, parameters, monitoring frequency, duration of monitoring program).

6. Schedule for implementation of closure activities (time frame).

*if appropriate

c. Notification

The permittee shall notify the Cadillac District Office of the Waste Management Division, Michigan Department of Natural Resources in writing of the proposed implementation of closure activities at least four (4) weeks prior to commencing closure activities.

d. Closure

Closure shall be accomplished in accordance with the approved plan and its schedule.

e. Certification

Within 30 days of completion of the closure of the wastewater treatment and disposal areas, the permittee shall certify in writing to the Cadillac District Office of the Waste Management Division, Michigan Department of Natural Resources that the facilities were closed in accordance with the approved closure plan.

The certification shall include the submittal of sample results for materials removed, disposal documents (if applicable) or other records indicating the volume removed and disposal location, proposed site remediation (if required), and the proposed groundwater monitoring plan outlining well locations and water quality data.

3. Soil Testing

Initial and annual soil tests shall be performed on irrigation fields as follows:

a. A soil fertility test shall be performed on samples from each approved field. Test parameters shall include but are not limited to phosphorus (Bray P_1).

b. Soil sampling methods shall be in accordance with "Sampling Soils", Extension Bulletin E-498, July 1975, Michigan State University.

c. The results of annual tests shall be submitted to the Waste Management Division on or before May 15 of each test year beginning in 1994. The report shall also describe the fertilizer application on each field for the preceding year.

4. Soil Phosphorus Limitations

If representative soil test levels for phosphorus (Bray P_1) reach 75 ppm (150 lbs/ac), the permittee shall notify the Waste Management Division in writing and the Waste Management Division may direct the permittee to conduct a phosphorus adsorption capacity evaluation of the site in accordance with the Langmuir Adsorption Equation (Langmuir Isotherm) procedure and the Bray (P_1) Method. Other methods may be substituted with the approval of the Waste Management Division. If upon reviewing such an evaluation the Waste Management Division determines that the soils will no longer adequately remove phosphorus from the wastewater effluent, the permittee shall, within six months of

notification, submit to the Waste Management Division and receive approval of plans and specifications for a system capable of removing the phosphorus to the limitation contained in this permit. The permittee shall have twelve months from the date the plans and specifications have been approved by the Department, to install the treatment system capable of removing phosphorus and have it operational.

5. Irrigation Record

The permittee shall maintain a log which details the length of time irrigation occurs on each irrigation field and the subsequent rest period as required in Part I.A.3.g. The log shall be available for inspection by Department of Natural Resources staff.

E. OTHER REPORTING AND MONITORING REQUIREMENTS

1. Reporting

a. The permittee shall effectively monitor the operation of all processes comprising the treatment and control facilities. Monitoring data required by this permit and other data required by the Waste Management Division, Michigan Department of Natural Resources shall be tabulated and summarized on a calendar month basis. Monthly reports, on forms or format supplied by the Department of Natural Resources, shall be mailed to the address below, postmarked no later than the tenth of the first month following the report period:

Michigan Department of Natural Resources
Waste Management Division
Groundwater Section
P. O. Box 30241
Lansing, Michigan 48909

2. Other reports, notifications, and questions regarding this permit should be addressed to:

Waste Management Division
Groundwater Section
Michigan Department of Natural Resources
P. O. Box 30241
Lansing, Michigan 48909
Telephone: 517-373-8148

or

JOHN ENGLER, Governor
DEPARTMENT OF NATURAL RESOURCES
John Hannah Building, P.O. Box 30241, Lansing, MI 48909
ROLAND HARMES, Director

August 20, 1993

CERTIFIED MAIL

Mr. James Jensen
Gray and Company
503 Polk Road
Hart, Michigan 49420

Dear Mr. Jensen:

Enclosed is a copy of the State Permit No. M 00836 for Gray and Company which was approved for issuance by the Water Resources Commission on August 19, 1993 following the 30-day public comment period.

I wish to call your attention to the special conditions and requirements of the permit. If there are questions regarding the permit requirements, please contact the Groundwater Permits Section of our Waste Management Division.

Sincerely,

Joan H. Peck

Joan H. Peck
Assistant Executive Secretary
Water Resources Commission
517-335-3383

Enclosure

cc: Jim Nordlund, Nordlund and Associates, Inc.
Brad Boals
Grand Traverse County Health Department
Whitewater Township Supervisor
Division of Environmental Health, MDPH
Cadillac District, WMD
Susan Anderson, WMD

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
WASTE MANAGEMENT DIVISION

GROUNDWATER DISCHARGE PERMIT

This permit is issued under the provisions of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, being Sections 324.3101 through 324.3119 of the Compiled Laws of Michigan, and the Administrative Rules promulgated thereunder. This permit does not relieve the permittee from obtaining and complying with any other permits required under local, state, or federal law.

Permit Number: M00836	**Authorization Rule:** 2218
Facility Name: Williamsburg Receiving and Storage, Inc.	
Issue Date: April 25, 2001	**Expiration Date:** April 1, 2006
Deadline for Submittal of Renewal Application: October 3, 2005	
Facility Address: 10190 Munro Road, Williamsburg, Michigan 49690	
Telephone: 231-264-5260	**Fax:** 231-264-8774
Discharge Location Description: SW 1/4, Section 9 and the NW 1/4, Section 16, T28N, R9W, Whitewater Township, Grand Traverse County, Michigan, as identified in Attachment 1 (Location Map) and fully described in this permit.	
Permittee Name: Williamsburg Receiving and Storage, Inc.	
Facility Owner Address: 10190 Munro Road, Williamsburg, Michigan 49690	
Telephone: 231-264-5260	**Fax:** 231-264-8774
Authorization to discharge a maximum 15,300,000 Gallons Per Year in accordance with the limitations, monitoring requirements, and other conditions as set forth in this permit, Part 31, and it's administrative rules.	
Type of Wastewater: Process Water	**Method of Treatment:** Land Application - A1a
Method of Disposal: Spray Irrigation - A1F1	

All construction, maintenance, operations, and monitoring of this facility must comply with the conditions set forth in this permit or in plans approved by the Department in accordance with this permit. Failure to comply with the terms and provisions of this permit may result in civil and/or criminal penalties as provided in Part 31.

This permit is based upon the information submitted in the March 28, 2000 application for groundwater discharge received by the Michigan Department of Environmental Quality and any subsequent amendments. This permit supersedes Permit M 00836 issued to Gray & Company on August 18, 1993.

Issued this 25th day of April 2001 for the Michigan Department of Environmental Quality.

L. C. Lee

Lonnie C. Lee, Chief, Groundwater Program Section
Waste Management Division
Michigan Department of Environmental Quality

A. Effluent Limitations and Monitoring Requirements

1. The wastewater discharge shall be limited and monitored by the permittee, at a minimum, as specified below and at sampling location identified in Attachment 2 (Site Map). The permittee shall submit reports quarterly as specified in Section F.1. of this permit. In the event of any non-compliance of limitations, including any detected in additional sampling to the minimum required below, the permittee shall fulfill the requirements of Section D.1. of this permit and Rule 2227.

SAMPLE LOCATION ID	PARAMETER	LIMITATION UNITS	MEASUREMENT FREQUENCY	SAMPLE TYPE
Effluent				
EF-1	Flow	42,000 GPD	Weekly	Calculation
		15.3 MGY	Weekly	Calculation
EQ-1	Total Inorganic Nitrogen	5 mg/l	Monthly	Calculation: Ammonia (N) + Nitrate (N) + Nitrite (N)
	Ammonia Nitrogen		Monthly	Grab
	Nitrate Nitrogen		Monthly	Grab
	Nitrite Nitrogen		Monthly	Grab
	Specific Conductance	umhos/cm	Weekly	Grab
	Sulfate	250 mg/l	Monthly	Grab
	Sodium	150 mg/l	Monthly	Grab
	Chloride	250 mg/l	Monthly	Grab
	Total Phosphorus	1 mg/l	Monthly	Grab
Land Application				
LA-1	Spring and Summer Irrigation Season (May through September)			
	Daily Irrigation Rate	0.09 inches/day	Weekly	Calculation
	Weekly Irrigation Rate	0.63 inches/week	Weekly	Calculation
LA-2	Fall and Winter Irrigation Season (October through April)			
	Daily Irrigation Rate	[redacted] inches/day	Weekly	Calculation
	Weekly Irrigation Rate	0.4 inches/week	Weekly	Calculation
S-1 Soils	Bray P1		Biennial	Grab

B. Observation Monitoring Requirements

The permittee shall inspect the treatment and disposal facilities for the operational conditions required below at the minimum frequency specified. All inspections shall be documented in a logbook to be maintained at the on-site facility and shall be available for review by Department personnel at all times.

LOCATION	CONDITION	MEASUREMENT FREQUENCY	SAMPLE TYPE
Irrigation Fields	Ponding, Pooling, Erosion	Daily During Discharge	Visual Observation
	Odors	Daily During Discharge	Olfactory Observation
	Piping and Sprinkler Heads	Daily During Discharge	Visual Observation
Lagoon	Dike Integrity	Weekly	Visual Observation
	Vegetation Control	Weekly	Visual Observation
	Nuisance Animals, Birds, Insects	Weekly	Visual Observation
	Freeboard (2 ft. minimum)	Weekly	Visual Observation
	Odors	Weekly	Olfactory Observation

C. **Compliance Requirements If Permit Limits Are Exceeded**

If a limit described in Section A.1. is exceeded, the discharger shall comply with Rule 2227and undertake the following within the specified timeframes indicated below:

1. Provide written notification to the Department at the address in Section F.2. of this permit, within seven calendar days that a limit has been exceeded. Such notification shall include the name of the substance(s), the concentration(s), and the location(s) that exceeded the limit(s).

2. Resample and analyze for the parameter(s) of concern within 14 days at the location where a limit was exceeded.

3. Submit a report to the Department at the address in Section F.2. of this permit within 60 days. Such report shall include the results of confirmation sampling, an evaluation of the reasons for the limit being exceeded, and the steps taken or proposed to prevent recurrences.

4. Complete additional activities as may be required by the Department pursuant to Rule 2227(1)(d).

D. **Schedule of Activities** – The permittee shall undertake the following activities by the dates specified.

1. Within 60 day of permit issuance the permittee shall submit to and receive the Department approval for an Operation and Maintenance Manual for the wastewater disposal facilities. [Rule 2218 (4)(b)]

2. Provide written notification to the Department at least ten (10) days prior to facility start-up.

E. **Reporting Requirements – Rule 2225**

1. All monitoring data as required and specified by this permit shall be submitted quarterly on a form provided by the Department by the 15th of the month following each calendar quarter (April 15th, July 15th, October 15th, and January 15th). Quarterly Monitoring Reports shall be submitted to the following address:

Groundwater Program Section
Waste Management Division
Department of Environmental Quality
P.O. Box 30166
Lansing, Michigan 48909 Telephone: 517-373-8148

2. All other notices, plans, reports, and other submissions required by and pursuant to this permit shall be submitted to the following:

Cadillac District Supervisor
Waste Management Division
Department of Environmental Quality
120 W. Chapin Street
Cadillac, Michigan 49601 Telephone: 616-775-3960

F. Other Conditions

1. If the permittee does not own land where the discharge occurs, the permittee shall obtain a written agreement from the property owner and submit a copy of the agreement to the Department on an annual basis by January 2nd of each year.

2. Effluent shall not be applied within 100 feet from property lines unless the owner of the adjacent land gives written consent to application up to 50 feet from the property line. Irrigation shall be stopped immediately if aerosol drift is detected beyond the isolation distance specified.

3. Effluent shall be isolated from water supply wells as specified in Rule 2204(2)(d).

4. The permittee shall maintain all treatment or control facilities or systems installed or used by the discharger to achieve compliance with this permit in good working order and operate the facilities or systems as effectively as possible.

G. **Approved Documents** – The following documents, previously submitted and approved are incorporated into this permit by reference. These documents, and those submitted and approved under Section E of this Permit, may be modified upon written approval of the Department.

1. Irrigation Management Plan – dated March 28, 2000

H. **Permit Application** – Issuance of this permit is based upon the information submitted on the Application for Groundwater Discharge (Application) and any subsequent amendments received by the Department. Any material or intentional inaccuracies found in this information, or omissions of material information, may be grounds for the revocation or modification of this permit or other enforcement action. The permittee shall inform the Department's Waste Management Division, Cadillac District Supervisor, of any known material or intentional inaccuracies in the information of the Application which would affect the permittee's ability to comply with the applicable rules or license conditions. The following documents were submitted to the Department as part of the Application:

1. Basis of Design – dated March 28, 2000.

2. Waste Characterization – dated February 25, 2000.

I. **Transfer of Ownership** – The permittee shall notify the Department, in writing, no less than 30 days before a change in ownership of the facility. This permit may be transferred to the new owner by written approval of the Chief of the Groundwater Program Section, Waste Management Division.

J. **Change or Modification of Treatment or Discharge** – Rule 2218 (3)(d) and (e)

The permittee, if proposing to modify the quantity or effluent characteristics of the discharge, if proposing to modify the monitoring program, or if proposing to modify the treatment process for the discharge, shall notify the Department of the proposed modification before it occurs. The Department shall determine if the proposed modification requires the permit to be modified to ensure that the terms of Rule 2204 are met. Modifications determined by the Department to be significant require that the permittee submit an application for and obtain a reissuance of the permit before such modification occurs.

K. By-Passing

Any diversion from or bypass of facilities necessary to maintain compliance with the terms and conditions of this permit is prohibited, except where unavoidable to prevent loss of life, personal injury, or severe property damage. The permittee shall immediately notify the Department of any such occurrence by telephone at 1-800-292-4706. Such notice shall be supplemented by a written report with the next operation report detailing the cause of such diversion or bypass and the corrective actions taken to minimize adverse impact and eliminate the need for future diversion or bypass.

L. Cessation of Discharge-Related Activities

If all or any portion of the permitted treatment facilities and discharge areas are intended to be eliminated, the permittee shall comply with the requirements of Rule 2226.

NOTE:

IF THE PERMITTEE WISHES TO CONTINUE DISCHARGING BEYOND THE EXPIRATION DATE, THE PERMITTEE SHALL SUBMIT A COMPLETE APPLICATION FOR REISSUANCE NO LATER THAN 180 DAYS PRIOR TO THE EXPIRATION DATE IN ACCORDANCE WITH RULE 2151 OF THE PART 21 ADMINISTRATIVE RULES. FAILURE TO SUBMIT AN ADMINISTRATIVELY COMPLETE APPLICATION FOR REISSUANCE BY THE REQUIRED DATE WILL RESULT IN TERMINATION OF THE AUTHORIZATION TO DISCHARGE ON THE EXPIRATION DATE.